

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FREDRIC N. ESHELMAN,

Plaintiff,

v.

TRUE THE VOTE, INC.,

Defendant.

Case No. 4:20-cv-04034

**MOTION FOR LEAVE TO FILE UNDER SEAL PLAINTIFF’S UNREDACTED
EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING ORDER
AND MOTION FOR PRELIMINARY INJUNCTION AND ACCOMPANYING
EXHIBITS**

Plaintiff Fredric N. Eshelman (“Plaintiff”) files this Motion for Leave to File Under Seal and requests that the Court allow Plaintiff to file under seal his 1) unredacted Emergency Application for Temporary Restraining Order and Motion for Preliminary Injunction (“Application”) 2) Exhibit J to the Application and 3) unredacted Proposed Order with account numbers under seal.

Plaintiff’s Application cites to Defendant True the Vote’s bank account balance and certain payments Defendant True the Vote made to the other Defendants. This information was derived from documents that True the Vote has designated “Confidential” pursuant to the Protective Order agreed to by the parties and entered by the Court on January 6, 2021. *See* Dkt. 30.

Application

It is Plaintiff's position that the only information referenced in the Application that may be confidential is the amount in True the Vote's bank account prior to Plaintiff's conditional gift on November 5, 2020. Thus, to the extent any redaction should occur in the Application, Plaintiff believes it should only be that amount.

It is True the Vote's position, as indicated in the below Certificate of Conference, that the transfer amounts to other Defendants, amount in True the Vote's bank account prior to Plaintiff's conditional gift, and list of disbursements by True the Vote are confidential, and thus should be redacted.

Exhibits attached to the Application

Additionally, Plaintiff's Application attaches as exhibits eighteen (18) documents, some of which were produced by Defendant True the Vote. Four of these exhibits, Exhibit **J**, Exhibit **K**, Exhibit **L**, and Exhibit **R** were produced by True the Vote and marked as "Confidential."

Exhibit J

It is Plaintiff's position that only Exhibit **J**, True the Vote's bank account records, should be filed under seal, as this document contains account numbers and wire numbers, which could potentially be used to violate and steal True the Vote's and the wire transferee's identities. True the Vote agrees that this exhibit should be sealed.

Exhibits K, L, and R

Though True the Vote marked Exhibits **K**, **L**, and **R** as "Confidential," Plaintiff does not believe that these are properly marked as confidential, as they are merely

invoices and disbursements recipients and amounts, without bank account numbers or other financially sensitive information. True the Vote views this differently, as indicated in the Certificate of Conference below, because of the potential for negative publicity and the potential for opponents in other matters to use the information that they are not entitled to use.

Proposed Order

The Proposed Order to the Application contains sensitive financial information like bank account numbers and wire numbers, that, under the Protective Order, Plaintiff believes are confidential due to the potential for a nefarious actor to utilize the account numbers and wire numbers for illegal purposes.

True the Vote agrees that the proposed order should not reflect bank account information.

Conclusion

For the foregoing reasons, Plaintiff respectfully asks the Court to grant his motion for leave to file under seal (1) Plaintiff's unredacted Emergency Application for Temporary Restraining Order and Motion for Preliminary Injunction, (2) Exhibit J, and (3) unredacted Proposed Order.

Dated: January 11, 2021

Respectfully submitted,
/s/ Douglas A. Daniels
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CERTIFICATE OF WORD COUNT

I hereby certify that there are 509 words in this Motion.

/s/ Douglas A. Daniels

Douglas A. Daniels

CERTIFICATE OF CONFERENCE

I hereby certify I emailed opposing counsel on 1/9/21 regarding their opinion as to the documents and information listed in this Motion for Leave to File Under Seal. Counsel for True the Vote, whose documents were marked “CONFIDENTIAL” and are at issue in this Motion for Leave indicated: “We believe all of the financial materials that were produced and marked confidential are indeed confidential and subject to the Court’s now entered protective order.” Counsel also indicated that it is their belief that the identify of the banking institutions, account balances, payments, salaries, list of disbursements, OPSEC invoices, proposed order with bank account information, and payments made are confidential. Counsel further indicated that, due to other lawsuits and matters True the Vote is involved in, other opponents might benefit from the information and they are not entitled to it. Counsel further wrote, “If we had expected to see these things come back in public filings we would not have agreed to the discovery so readily. It is the reason we sought the protective order in the first place. [. . .] We do not understand why there is any question at all about the confidentiality of these matters, or what reason other than the thrill of additional negative publicity for True the Vote that is gained by this. The publicity is of course not a reason to disclose these matters.”

/s/ Douglas A. Daniels

Douglas A. Daniels

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of January a true and correct copy of the above foregoing document has been forwarded to counsel of record via ECF and email and on parties as follows:

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